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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Amy M. Manetta

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EXAMINER

CHUONG, TRUC T

ART UNIT

PAPER NUMBER

2179

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/805,970

Applicant(s)

MANETTA, AMY M.

Examiner

Truc T. Chuong

Art Unit

2179

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-13 and 15-22 is/are pending in the application.
- 4a) Of the above claim(s) 23-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-13, and 15-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This communication is responsive the Amendment, filed 01/23/06.

Claims 1-2, 4-13, and 15-22 are pending in this application. In the communication, claims 1 and 12 are independent claims, and claims 3 and 14 are cancelled. This action is made final.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior office action.

Claim Rejections - 35 USC § 102

1. Claims 1 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Reuss et al. (U.S. Patent No. 6,406,426 B1).

As to claim 1, Reuss teaches an Internet compatible system for displaying medical information (Reuss clearly shows ventilating and other medical information/status can be controlled/retrieved from different communication devices which are capable of sending and getting the priority communicating data throughout the wire area network/internet by using wire/wireless connections such as laptops, PDAs, PCs, etc. e.g., col. 4 lines 8-22, col. 9 lines 25-47, and col. 15 lines 15-32) comprising:

a communication network (the output parameters of the therapeutic device communicates with remote access devices such as PDAs, telephones, laptops, etc. over the wire/wireless communication network, e.g., col. 4 lines 8-22, col. 9 lines 25-47, and col. 15 lines 3-10) for acquiring ventilator parameters and settings associated with a patient on a substantially periodic basis and in response to a user command (information including ventilator parameters and

Art Unit: 2179

settings of the patients can be forwarded to the caregivers over the network, e.g., col. 3 lines 46-60, col. 7 lines 27-43, and the data are periodically sent the remote devices, col. 14 line 64-col. 15 line 5);

a device for prioritizing received ventilator parameters and settings for display in a desired order and for allocating an attribute to distinguish changed ventilator parameters (the medical data are forwarded from the Message Server Task to the remote devices based on the priority of a medical alert means that higher priority task will be announced/displayed and later to be solved in order based on its priority, e.g., col. 15 lines 4-8); and

a display generator for initiating generation of data representing a display of prioritized ventilator parameters and settings in the desired order and attributes for distinguishing changed ventilator parameters and settings (e.g., col. 3 lines 46-60, col. 7 lines 27-43, col. 15 lines 4-8).

As to claim 12, it is a method claim of system claim 1. Note the rejection of claim 1 above.

Claim Rejections - 35 USC § 103

2. Claims 2, 4-11, 13, and 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reuss et al. (U.S. Patent No. 6,406,426 B1) in view of Shulman et al. (U.S. 2001/0030664 A1).

As to claim 2, Reuss teaches the system to send and received parameters and settings (attribute) as mentioned in claim 1 above; however, Reuss does not show wherein the attribute is a different color. Shulman clearly teaches that color of an icon indicates detailed status information of a network ([0052] of page 5). It would have been obvious at the time of the

Art Unit: 2179

invention, a person with ordinary skill in the art would want to apply the Shulman's color status features in the system of Reuss to provide better visualization for user to determine status information for each element of a network.

As to claim 4, the modified Reuss teaches the system of claim 2 wherein the display generator generates data representing a window for displaying said ordered ventilator parameters and settings in a first window (information including ventilator parameters and settings of the patients can be forwarded to the caregivers over the network, e.g., col. 3 lines 46-60, col. 7 lines 27-43).

As to claim 5, Reuss teach the system of claim 4 wherein the display generator comprises an Internet browser (Reuss clearly shows ventilating and other medical information/status can be controlled/retrieved from different communication devices which are capable of sending and getting the priority communicating data throughout the wire area network/internet by using wire/wireless connections such as laptops, PDAs, PCs, etc. e.g., col. 4 lines 8-22, col. 9 lines 25-47, and col. 15 lines 15-32).

As to claim 6, this can be rejected as a similar rationale as claim 2 above.

As to claims 7-8, Reuss teaches the system of claim 2 wherein the device, in response to the user command, acquires a new set of ventilator parameters and settings (after solving the problems remotely, the system will be updated with new data, or the data can be request from the caregivers, e.g., col. 15 lines 1-15, and col. 16 lines 45-65).

As to claim 9, Reuss teaches the system of claim 8 wherein the second user command comprising selection of a filtered list (remove the messages are no longer needed, col. 15 lines 1-15).

As to claim 10, Reuss teaches the system of claim 8 wherein the second user command comprises creation of a set of values for selected parameters and settings (information including ventilator parameters and settings of the patients can be forwarded to the caregivers over the network, e.g., col. 3 lines 46-60, col. 7 lines 27-43, and the data are periodically sent the remote devices, col. 14 line 64-col. 15 line 5).

As to claim 11, Reuss teaches the system of claim 4 wherein said menu generator comprises a user selection for selecting any one of the plurality of sources (e.g., col. 3 lines 46-60).

As to claims 13, and 15-22, they are method claims of system claims 2, and 4-11. Note the rejections of claims 2, and 4-11 above respectively.

Response to Arguments

3. Applicant's arguments filed in the communication have been fully considered but they are not persuasive.

Applicants have argued and Examiner does not agree with the following reasons:

a. Reuss does not teach or suggest an Internet compatible system (Internet Browser) for displaying medical information derived from a plurality of sources.

Reuss clearly teaches the therapy status data from the therapeutic devices such as an intravenous infusions pump (IV Pump), ventilator support device (ventilator), hemodialysis machine, or patient warning/cooling system, can be regularly communicated to the patient monitor through a communications port which can be linked to a wireless communication segment, an RS-232 serial connection, or

other hardwired or wireless network connection to the remote devices of the caregivers (col. 3 lines 46-60), and Reuss clearly shows ventilating and other medical information/status can be controlled/retrieved from different communication devices which are capable of sending and getting the priority communicating data throughout the wire area network/internet by using wire/wireless connections such as laptops, PDAs, and personal computers (PCs) can also be used, etc. (e.g., col. 4 lines 8-22, col. 9 lines 25-47, and col. 15 lines 15-32). As mentioned above, the remote access medical monitoring devices of Reuss comprise handheld computers (Laptops), PDAs and PCs, which are well known in the art as the time of the invention that those above devices contain Web Browsers (usually come with the OS), for example, Internet Explorer with Microsoft Windows. Moreover, Reuss also provides the remote access devices use IP (Internet Protocol) in communication (e.g., col. 15 lines 29-30).

- b. *Reuss does not show the system comprising "a communication network for acquiring ventilator parameters and settings associated with a patient on a substantially periodic basis and in response to a user command."*

Reuss shows the patient monitor includes a display 22 for optionally displaying therapy status, physiological parameter, and alert condition data to a local caregiver, and an alphanumeric keypad 23. The user interface (comprising the display and keypad) permits the caregiver to locally select patient monitoring conditions, including the selection of therapy delivery parameters, vital signs to be monitored; the adjustment of local display features including waveform

selection, scaling, and sweep speed; and the transmission of command data to the central monitoring system 14 to initiate functions such as remote printing or to alert personnel associated therewith. In the event that a patient moves outside of the wireless communications range of any central station 14, this user interface permits the caregiver to operate the monitor locally like a conventional bedside monitor (col. 8 lines 13-29). The therapy status data includes intravenous infusions pump (IV Pump), ventilator support device (ventilator), hemodialysis machine, or patient warning/cooling system, can be regularly communicated to the patient monitor through a communications port which can be linked to a wireless communication segment, an RS-232 serial connection, or other hardwired or wireless network connection (col. 3 lines 46-60). The communications between the remote control devices and medical system are bi-directional communications, which allow for remote control of therapy delivery and physiological monitoring parameters from the external devices (Summary). It means the caregivers with the remote device can control/set/change the ventilator parameters like the conventional bedside monitor.

c. *Reuss is silent that the ventilator parameters and settings are acquired "on a substantially periodic basis."*

When a medical alert situation has been detected, a Message Server Task 98 processes requests for delivery of a message to a remote access device 42 made by the System Executive Task 92. The Message Server Task 98 maintains a list of information on messages which have been queued, including status (sent,

acknowledged, canceled, etc.). This task also determines if a delivery has failed, and optimizes use of the memory reserved for message storage inside of the remote access device. If alert delivery fails, either because it could not be sent or was not acknowledged in a predetermined time period, the Message Server Task 98 can send an alarm to the central monitoring system 14 or alternatively, transmit the message to an alternative recipient (col. 14 line 48-col. 15 line 10). Therefore, the system of Reuss is capable of sending/checking parameters periodically.

- d. *Reuss does not disclose the display of prioritized ventilator parameters and settings.*

Reuss clearly shows all medical data from the patient are listed based on the priority of the medical alert associated with it (col. 15 lines 5-15). The system will tell the caregivers the medical data having higher priority need to be reacted or set over the others.

- e. *Reuss does not teach, "the user command acquires a new set of ventilator parameters and settings", "the device prioritizes the received ventilation unit parameters and settings for display in a desired order in response to a second command", or "filtered list."*

Reuss teaches information including ventilator parameters and settings of the patients can be forwarded to the caregivers over the network, e.g., col. 3 lines 46-60, col. 7 lines 27-43, and the data are periodically sent the remote devices, col. 14 line 64-col. 15 line 5. By monitoring a list of all messages sent in the system, the system also performs the task of message memory maintenance for the remote

access devices 42. Periodically, the Message Server Task 98 queries all known remote access devices 42 to determine if the message memory in some remote access device 42 is becoming full. If so, the Message Server Task 98 issues a command to the remote access device 42 to remove message(s) from its memory (filtered list). The selection of messages is based upon age of the message, whether it has been read, and the priority of a medical alert (if any) associated with it. Furthermore, the Message Server Task 98 can delete data from the remote access device 42 which is no longer relevant, e.g., alerts which were responded to by other recipients and thus no longer need attention (col. 15 lines 1-15); and by grouping a series of one or more commands, the system can remotely request/set parameters (col. 16 line 45-col. 17 line 14).

f. There is no suggestion or motivation to combine Reuss and Shulman.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Reuss teaches the system to send/set and received parameters and settings (attribute) as mentioned, and the caregivers with the remote device can control/set/change the ventilator parameters like the conventional bedside monitor

(see the answer to b above); however, the only one limitation that Reuss does not teach is the attribute in different colors. Shulman clearly teaches that color of an icon indicates detailed status information of a network ([0052] of page 5). It would have been obvious at the time of the invention, a person with ordinary skill in the art would want to apply the Shulman's color status features in the system of Reuss to provide better visualization for user to determine status information for each element of a network.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Truc T. Chuong whose telephone number is 571-272-4134. The examiner can normally be reached on M-Th and alternate Fridays 8:30 AM - 5:00 PM.

Art Unit: 2179

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (571) 272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Truc T. Chuong

04/11/06



WEILUN LO
SUPERVISORY PATENT EXAMINER